

House Study Bill 608

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON SWAIM)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the disposal of dead animal carcasses in a
2 water of this state, and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 5796YC 82
5 da/nh/5

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1 1 Section 1. Section 167.18, Code 2007, is amended to read
1 2 as follows:

1 3 167.18 DUTY TO DISPOSE OF DEAD BODIES.

1 4 A person who has been caring for or who owns an animal that
1 5 has died shall ~~not allow the carcass to lie about the person's~~
1 6 ~~premises. The carcass shall be disposed of dispose of the~~
1 7 ~~animal's carcass~~ within twenty-four hours after ~~the animal's~~
1 8 ~~death. The person shall dispose of the carcass by cooking,~~
1 9 ~~burying, or burning it,~~ as provided in this chapter, or by
1 10 disposing of it, within the allowed time, to a person licensed
1 11 to dispose of it. ~~If the carcass is disposed of in a water of~~
1 12 ~~the state, as defined in section 455B.171, the department~~
1 13 ~~shall cooperate with the department of natural resources in~~
1 14 ~~investigating the incident, enforcing this section, and~~
1 15 ~~remediating the damage.~~

1 16 Sec. 2. Section 167.19, Code 2007, is amended to read as
1 17 follows:

1 18 167.19 ~~PENALTY~~ PENALTIES.

1 19 1. a. Except as provided in paragraph "b", a person who
1 20 violates this chapter or a rule adopted by the department
1 21 pursuant to this chapter is guilty of a simple misdemeanor.
1 22 The person may be subject to a civil penalty of not less than
1 23 one hundred dollars and not more than one thousand dollars for
1 24 each violation. However, the state shall be precluded from
1 25 bringing a criminal action against the person under this
1 26 subsection, if the department has initiated a civil
1 27 enforcement proceeding against the person.

1 28 b. A person who violates section 167.18 by disposing of an
1 29 animal carcass into a water of the state as defined in section
1 30 455B.171 is guilty of a serious misdemeanor. The person is
1 31 also subject to a civil penalty of not less than one thousand
1 32 dollars and not more than five thousand dollars for each
1 33 carcass that the person disposes of in a water of the state.
1 34 A person who disposes of one or more parts of an animal
1 35 carcass or offal from that animal on the same occasion is
2 1 guilty of a single violation.

2 2 2. Moneys collected in civil penalties under this section
2 3 shall be deposited into the general fund of the state.

2 4 Sec. 3. NEW SECTION. 167.19A RESTITUTION.

2 5 A person who is guilty of or civilly liable for disposing
2 6 of an animal carcass into a water of the state as provided in
2 7 section 167.19 shall pay restitution to the following:

2 8 1. The department of agriculture and land stewardship or
2 9 the department of natural resources for costs associated with
2 10 properly disposing of the animal carcass by that department.
2 11 The moneys received by the department shall be treated as
2 12 repayment receipts as provided in section 8.2.

2 13 2. The department of natural resources for injury caused
2 14 to a wild animal or the department's administrative expenses.
2 15 The moneys shall be deposited in the state fish and game
2 16 protection fund created in section 456A.17 as provided in
2 17 section 481A.151.

2 18 3. The department of natural resources for performing

2 19 testing of the quality of the waters of the state where the
2 20 animal carcass was disposed. The moneys shall be deposited
2 21 into the watershed improvement fund created in section 466A.2.

2 22 EXPLANATION

2 23 This bill amends provisions in Code chapter 167 which
2 24 prohibit a person from disposing of an animal other than by
2 25 cooking, burying, burning, or providing it to a person
2 26 licensed under the Code chapter for rendering. The bill
2 27 provides that the department of agriculture and land
2 28 stewardship, which is responsible for administering the Code
2 29 chapter, must cooperate with the department of natural
2 30 resources when a violation of the disposal requirements
2 31 involves placing an animal carcass in a water of the state
2 32 (see Code section 167.19 and 21 IAC 61.32). A water of the
2 33 state includes a stream, lake, pond, marsh, watercourse,
2 34 waterway, well, spring, reservoir, aquifer, irrigation system,
2 35 or drainage system.

3 1 The bill provides an enhanced penalty for the illegal
3 2 disposal, from a simple misdemeanor to a serious misdemeanor,
3 3 and increases the civil penalty from a range between \$100 and
3 4 \$1,000 to a range between \$1,000 and \$5,000. Unlike the
3 5 general penalty provision, a person may be subject to both a
3 6 criminal and civil penalty.

3 7 In addition to the penalty provisions, a person who
3 8 illegally deposits an animal carcass into a water of the state
3 9 must pay restitution to the state, including to the agency
3 10 which provides for its proper disposal, to the department of
3 11 natural resources under its restitution statute for water
3 12 pollution (Code section 481A.151), and to the department of
3 13 natural resources for performing water quality testing.

3 14 A simple misdemeanor is punishable by confinement for no
3 15 more than 30 days or a fine of at least \$65 but not more than
3 16 \$625 or by both. A serious misdemeanor is punishable by
3 17 confinement for no more than one year and a fine of at least
3 18 \$315 but not more than \$1,875.

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